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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/609,266

06/26/2003

James E. Allard

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8120

69316 7590 09/26/2007
MICROSOFT CORPORATION
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EXAMINER

NGUYEN, KIM T

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

09/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/609,266

Applicant(s)

ALLARD ET AL.

Examiner

Kim T. Nguyen

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-33 and 36-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-33 and 36-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/25/07, 7/30/07, 9/17/07.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Applicant files the amendment on 7/30/07 is acknowledged.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14-33 and 36-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ryzin (US 6,393,430) in view of Shih et al (US 2003/0227473).

Re claims 14-15 and 24-25: Van Ryzin teaches a method comprising obtaining an audio track from an audio source (col. 5, line 4); saving an identifier of the audio source (col. 4, lines 11-24); and when a database containing meta data associated with the audio track is available, obtaining the meta data associated with the audio track from the database and storing the meta data associated with the audio track, wherein the meta data is obtained based at least in part on the identifier saved on the storage device (col. 3, lines 60-67; col. 4, lines 1-25; and col. 5, lines 32-50). Van Ryzin fails to disclose implementing the method in a game console and saving the audio track so that a copy of the audio track is available when the audio source is no longer accessible to the game console, wherein the audio track is at least part of a user-created soundtrack. However, Van Ryzin teaches saving the audio track so that a

copy of the audio track is available when the audio source is no longer accessible to the PC, wherein the audio track is at least part of a user-created soundtrack (col. 5, lines 37-48), and Shih discloses that audio source is accessible to a gaming platform such as PC or game consoles (paragraph 0025). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to save the audio track of in the storage device of the game console of Shih in order to facilitate incorporating custom playlists into a video game.

Re claims 16-17, 26-27, and 41: Van Ryzin teaches storing the database on an internal hard disk drive (col. 4, lines 8-9).

Re claims 18, 28, 38, 47: Van Ryzin teaches saving an indicator of the audio track; and wherein the meta data is obtained based at least in part on both the saved identifier and the saved indicator on the storage device (col. 4, lines 9-25 and 28-45).

Re claims 19-20, 29-30, 39-40, and 49-50: Van Ryzin teaches that the audio source comprises an audio CD (col. 3, lines 55-58).

Re claims 21-23, 31-33, 42-44 and 51-53: Van Ryzin teaches including table of content information for the audio source (col. 3, lines 60-66; and col. 4, lines 1-25).

Re claims 36-37 and 45-46: Van Ryzin teaches using an identifier of the audio source to retrieve meta data associated with the audio track from a database if the database is accessible (col. 4, lines 1-7 and 39-40). Van Ryzin, further, teaches saving the identifier of the audio source if the database is not accessible (col. 4, lines 56-59; col. 4, lines 9-19).

Response to Arguments

3. Applicant's arguments filed 7/30/07 have been fully considered but they are not persuasive.

In response to applicant's argument that that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Van Ryzin teaches that a copy of the audio track is accessible by the PC, and Shih teaches that the selected audio tracks could be accessible by a game platform such as PC or game consoles (paragraph 0025). Van Ryzin and Shih are directed to the same technology and are combinable, since Van Ryzin teaches storing sound track and accessing the stored sound track using a PC, and Shih teach storing sound track and accessing the stored sound track using a PC or a game console.

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any response to this final action should be mailed to:

Box AF:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(571) 273-8300, (for formal communications; please mark
"EXPEDITED PROCEDURE").

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim T. Nguyen whose telephone number is (571) 272-4441. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on (571) 272-7147. The central official fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR

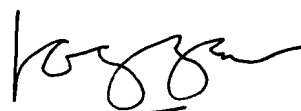
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only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Date: September 21, 2007

A handwritten signature in black ink, appearing to read 'K. T. Nguyen', with a stylized flourish at the end.

Kim T. Nguyen
Primary Examiner
Art Unit 3714